



Paul E. Patton, Governor

Janie A. Miller, Secretary
Public Protection and
Regulation Cabinet

Thomas M. Dorman
Executive Director
Public Service Commission

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
211 SOWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602-0615
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

Martin J. Huelmann
Chairman

Gary W. Gillis
Vice Chairman

Robert E. Spurlin
Commissioner

January 6, 2003

PARTIES OF RECORD:

RE: Case No. 2002-00276
Petition of BellSouth Telecommunications, Inc. for
Presumptive Validity of Tariff Filings
November 26, 2002 Informal Conference

Attached please find a memorandum that has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within five (5) days of receipt of this letter. Any questions regarding this memorandum should be directed to Deborah Eversole at 502-564-3940, extension 255.

Sincerely,

Thomas M. Dorman
Executive Director


/AED/rst
Attachments
cc: File



INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Main Case File 2002-00276

FROM: Amy Dougherty 

DATE: January 6, 2003

RE: Petition of BellSouth Telecommunications, Inc. for
Presumptive Validity of Tariff Filings
November 26, 2002 Informal Conference

BellSouth's representative, Jim Tipton, presented information on the company's proposal for presumptive validity of its tariffs. According to BellSouth, this presumptive validity is needed for two reasons. One, to get products to the market more quickly and two, to enable the filing process to be more efficient. If tariffs were presumed valid then BellSouth could undertake training and systems changes with more certainty. Also, there would be no time between the effective date and implementation date since BellSouth could proceed to implement tariff changes as soon as they were effective.

Other parties addressed the issues associated with the burden of proof and whether this presumptive validity proposal would in actuality shift the burden from BellSouth to intervenors. Intervenors addressed the issue that 72 percent of business customers are still retained by BellSouth and this presumptive validity may be inappropriate. Moreover, the new services versus elimination of services and how those events might be affected by the proposal were discussed. BellSouth agreed to supply an update from other states, a replacement of its A36 tariff containing the changes it proposed in this proceeding, and a description of whether the wholesale basket of UNEs versus the retail basket only would be affected by the proposal. BellSouth also will supply a more thorough description of the categories affected by its proposal.

BellSouth agreed to file this additional information by mid-January. By this memo, Staff is hereby requesting that BellSouth confirm the date on which this updated information may be expected at the Commission

Attached to this memo is the informal conference sign in sheet. Also attached is a copy of BellSouth's handout.

/rst
Attachments
cc: File

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BELL SOUTH TELECOMMUNICATIONS,)
INC. FOR PRESUMPTIVE VALIDITY OF TARIFF FILINGS)

CASE NO.
2002-00276

INFORMAL CONFERENCE

November 26, 2002

PLEASE SIGN IN:

NAME

REPRESENTS

Wm E Dougherty

PSC

Jim Stevens

PSC

Bill Atkinson

Sprint

Jack Hughes

Sprint

Joan Coleman

Bell South

Jim Tipton

Bell South

Dorothy Chubb

"

Larry Harky

PSC

Eddy Roberts

Bell South

Tom Dorman

PSC

PAGE 2

PLEASE SIGN IN:

NAME

REPRESENTS

Amanda Hale

PSC

Bill Bonker

PSC

Jackie Long

Sprint

JEFF JOHNSON

PSC

Ginny Smith

PSC

Renee Smith

PSC

Kyle Willard

PSC - Eng.

Henry Walker via phone AT&T

Presumptive Validity

What is it?

1. "[A] condition where a tariff is presumed to be valid and becomes effective on the proposed effective date. [Although the Commission will continue to review the filings to determine whether they are fair, just, and reasonable according to the Transition Regulation Plan (TRP), t]here is no additional Commission action (approval) required." (Petition, p.1)
2. Presumptive Validity applies only for tariff proposals for services in the Retail Category of the Transition Regulation Plan. As is currently approved by the Commission, the TRP Retail Category does not allow increases to the Basic Residential Service (1FR).
3. Specific Proposal:
 - a. Rate Reductions: One calendar day (petition, p.2)
 - b. New Services: One calendar day (petition, p.2)
 - c. New Options: One calendar day (petition, p.2)
 - d. Rate Increases: Thirty calendar days (petition, p.2)
 - e. Changes to Terms and Conditions: Thirty calendar days (petition, p.2)
4. Similar to the improvements in the efficiency of the filing process granted by the Commission for contracts and promotions, this request seeks to improve the efficiency for filing tariffs.

What if the Commission is concerned that the tariff filing does not meet the rules of the TRP?

1. "Intervenors, the Commission, and the staff would always have 30 days from the filing date to challenge the filing. If a tariff is challenged, the Company would continue to offer the service until the issues have been resolved. If the proposal is ultimately denied or modified, the Company would refund as appropriate." (Petition, p.2)
 - a. With this proposed process, there is no change in the Commission's authority over BellSouth's tariff filings. If the Commission ultimately decides to not allow a rate change, BellSouth holds all the risk of having to make a refund. We don't want to make refunds, so we have a built in motivation to "do it right".
 - b. We "do it right". Since the Transition Regulation Plan was approved in 2000, we have filed over 100 tariffs and nearly 100 promotions. Only two tariff proposals were denied -- one that proposed increases in the rates for certain vertical services, and one that proposed the elimination of Local Measured Service. All other filings were determined to be fair and reasonable as it relates to the TRP.
 - In our petition, we failed to propose a filing interval for proposals to eliminate services. BellSouth is comfortable with maintaining the current 30-day interval and procedures for services it wants to delete.

What is it not?

1. It is not a proposal that will reduce, eliminate, or negate any latitude that the Commission, the staff, or any other entity has today to challenge our tariff filings.
 - a. "'Presumptive Validity' does not preclude the staff or an intervenor from challenging the tariff, however, the tariff would become effective and remain effective while it is under challenge." (Petition, pp.1-2)
 - c. Some form of presumptive validity is now available to BellSouth in all other BellSouth states except Tennessee (please see attached matrix).
2. It is not applicable to any tariff proposals for services in either the Industrial Category (UNEs, USF, Lifeline, or Resale Discount) or the Access Category (those services in the "E Tariff") of the Transition Regulation Plan. In addition, the IFR is currently capped under the TRP.

Notes:

1. There are clear public benefits in the introduction of new services, new options, and the implementation of rate decreases in one day rather than 30 days.
2. A 30-day filing interval for rate increases and changes to terms and conditions will allow adequate time for customer notice, and will give the Commission and staff the same amount of time as is provided today for evaluation of our proposal in terms of adherence to the Transition Regulation Plan.
3. Under this proposal, the Company will continue to file cost studies, even though BellSouth is not regulated on rate of return and CLECs do not have the same Requirements. In addition, other competitors (wireless carriers, cable) are outside the Commission's jurisdiction.
4. The proposed process will streamline the tariff filing process, providing added efficiency for both the Commission and the Company. Changes to the Company's Operations Support Systems are required for service changes and tariff filings -- these changes must be made before the effective date. Presumptive validity will allow these changes (as well other processes like training and advertising) to be accomplished more efficiently.
5. BellSouth endorses the Commission's provision of the same process to any competitor who requests it from the Commission. This proposal does not provide BellSouth with any competitive advantage.

Presumptively Valid Tariffs

States	Price Increases	Price Decreases	New Services	Add Service Options	New Ts & Cs	Suspension
Alabama	No less than 30 days. Tariff effective as filed unless intervention or PSC suspension. Initial 30 days may be extended 30 days by PSC action. If no action by PSC, tariff effective as filed. Effective date may be extended additional 60 days.	No less than 15 days. Tariff effective as filed unless intervention or PSC suspension. Effective date may be extended additional 60 days due to intervention or PSC investigation. PV	No less than 30 days. Tariff effective as filed unless intervention or PSC suspension. Initial 30 days may be extended 30 days by PSC action. If no action by PSC, tariff effective as filed. Effective date may be extended additional 60 days.	Not specifically addressed by Price Regulation Plan. Default to 30 days.	Not specifically addressed by Price Regulation Plan. Default to 30 days.	See rules for price increases, new services, promotions, and price decreases. If not specifically addressed by Price Regulation Plan, state law would permit suspension up to 180 days.
Georgia	30 days PV	30 days, PV	30 days, PV	30 days, PV	30 days, PV	Yes. May suspend and defer effective date 5 months.
Florida	<u>Basic</u> : 30 days, <u>Non-Basic</u> : 15 days on setting or changing rates, PV <u>Access</u> : 7 days on rate decrease; 30 days on rate increase, PV Investigation w/i 30 days and hold LEC subject to a refund, Commission action w/i 60 days	<u>Basic</u> : 30 days, <u>Non-Basic</u> : 15 days on setting or changing rates, PV <u>Access</u> : 7 days on rate decrease; 30 days on rate increase, PV Investigation w/i 30 days and hold LEC subject to a refund, Commission action w/i 60 days	<u>Basic</u> : 30 days, <u>Non-Basic</u> : 15 days on setting or changing rates, PV <u>Access</u> : 7 days on rate decrease; 30 days on rate increase, PV Investigation w/i 30 days and hold LEC subject to a refund, Commission action w/i 60 days	<u>Basic</u> : 30 days, <u>Non-Basic</u> : 15 days on setting or changing rates, PV <u>Access</u> : 7 days on rate decrease; 30 days on rate increase, PV Investigation w/i 30 days and hold LEC subject to a refund, Commission action w/i 60 days	<u>Basic</u> : 30 days, <u>Non-Basic</u> : 15 days on setting or changing rates, PV <u>Access</u> : 7 days on rate decrease; 30 days on rate increase, PV Investigation w/i 30 days and hold LEC subject to a refund, Commission action w/i 60 days	There is no suspension of filings. The Commission must address at an agenda to discontinue tariff.
Louisiana	Commission must accept, reject or elect to publish notice of filed tariff within 10 business days. If no action is taken within 10 days, tariff is deemed accepted, PV	Commission must accept, reject or elect to publish notice of filed tariff within 10 business days. If no action is taken within 10 days, tariff is deemed accepted, PV	Commission must accept, reject or elect to publish notice of filed tariff within 10 business days. If no action is taken within 10 days, tariff is deemed accepted, PV	Commission must accept, reject or elect to publish notice of filed tariff within 10 business days. If no action is taken within 10 days, tariff is deemed accepted, PV	Commission must accept, reject or elect to publish notice of filed tariff within 10 business days. If no action is taken within 10 days, tariff is deemed accepted, PV	Commission has the right to publish notice of a filed tariff and either accept the tariff or delay the acceptance of the tariff (suspend acceptance).
Mississippi	30 days, PV	30 days, PV	30 days, PV	30 days, PV	30 days, PV	Yes, Commission may suspend tariff. Rates go into effect after 30 days pending Commission action. May order refunds.
North Carolina	14 days, PV , Customer Notification is Required.	7 days unless suspended by Commission for 45 days, PV	14 days, PV	14 Days, PV	14 days, PV	Within 14 days, Comm may suspended effective date to 45 days.
South Carolina	14 days, PV	7 days, PV	14 days, PV	14 days, PV	14 days, PV	Suspension of tariff filing is not allowed
Tennessee	30 Days	30 Days	30 Days	30 Days	30 Days	TRA Discretion